



Oregon

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TO: The Honorable Representative Brian Clem, Chair
House Committee on Rural Communities, Land Use and Water

FROM: Jim Rue, Director
Department of Land Conservation and Development

RE: HB 2456

House Bill 2456 has been introduced on behalf of the Department of Land Conservation and Development (DLCD). This agency has proposed this bill in order to repair a drafting error in legislation that was enacted unanimously by the 2013 legislature: HB 2254 regarding urban growth boundary planning. That legislation authorized a new optional streamlined process for cities to evaluate and, if necessary, amend their urban growth boundaries (UGBs). HB 2254 was a significant piece of land use legislation, and is now codified in statute at ORS 197A.300 to 197A.325. As such, we urge the committee to make this small “housekeeping” amendment to make sure this law is properly implemented.

HB 2254 (2013) requires the Land Conservation and Development Commission (LCDC) to adopt administrative rules that establish the optional UGB process. These rules must be adopted by January 1, 2016, and must be based on research about urban area development trends in particular regions of the state. It is expected that this new process will substantially reduce local government costs, as well as the complexity of the process. Although it is optional, this new method may eventually be used by most Oregon cities with growing populations. The department and a group of citizens and stakeholders have been working on the required rules since the summer of 2013 and have made considerable progress. The new rules will be completed and adopted by January 1, 2016, as required by law.

Problem: Unfortunately, it was not until well after HB 2254 was enacted that the department and other stakeholders noticed that there was a drafting error in the bill. A subsection meant to include certain specific requirements to guide this rulemaking was inadvertently omitted from the bill, specifically the portion of the bill that is now codified in ORS 197A.312. Although the intent of the missing section can probably be guessed, this will create confusion and could lead to legal challenges as LCDC completes the required administrative rules.

HB 2254 included two separate sections, one for “small cities” (less than 10,000 in population) and one for “large cities” (over 10,000). While some of the provisions of this law are different in these two sections, some of those requirements were intended to be identical. And indeed, for some of the “identical” provisions, it has become clear that there is a “missing” subsection in the “large city” portion of the bill.

Fortunately, both the “small city” and “large city” sections of the bill were intended to be virtually identical for those matters that are addressed in the “missing” subsection. Since the “small city” section was correctly drafted in the legislation, it is easy to discern the exact wording that should have also been provided in the omitted “large city” section.

HB 2456 would simply insert the “missing” wording into ORS 197A.312. This bill would also renumber subsequent sections accordingly.

Thank you for considering this legislation. If you have questions, please contact Bob Rindy, Legislative Coordinator, 503-934-0008; bob.rindy@state.or.us

Copy: Greg Macpherson, LCDC Chair